

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

RAUL ORTIZ, et al.,) CASE NO.: 1:24-CV-00802
)
Plaintiffs,) JUDGE: PATRICIA GAUGHAN
)
vs.) <u>ANSWER OF DEFENDANT</u>
) <u>PATROLMAN PAIGE MITCHELL</u>
PATROLMAN PAIGE MITCHELL, et al.,)
) <u>(Jury Demand Endorsed Hereon)</u>
Defendants.)

Now comes Defendant, Patrolman Paige Mitchell, by and through counsel Mazanec, Raskin & Ryder Co., L.P.A., and for her answer to Plaintiffs' Complaint states as follows:

1. Answering Paragraph 1 of Plaintiffs' Complaint, Defendant avers said Paragraph is rhetorical and does not require an answer by this Defendant. To the extent that an answer is required, Defendant denies any violation of law or any wrongdoing.
2. Answering Paragraphs 2 and 3 of Plaintiffs' Complaint, Defendant admits this Court has jurisdiction over Plaintiffs' federal claims and has discretion to exercise jurisdiction over Plaintiffs' state law claims. Defendant admits venue is proper in this court.
3. Answering Paragraphs 4 and 5 of Plaintiff's Complaint, Defendant admits the allegations contained therein.
4. Answering Paragraphs 6, 7, 8, 9, 10, 11, 12, 13 and 14 of Plaintiffs' Complaint, Defendant admits that Defendants Mitchell, Hersch and Lewis are police officers employed by the City of Elyria, that at all pertinent times they were acting under color of law and that Plaintiffs are suing them in their individual capacity. Further answering said Paragraphs, Defendant denies any remaining allegations contained therein.

5. Answering Paragraph 15 of Plaintiffs' Complaint, Defendant avers said Paragraph is rhetorical and does not require an answer by this Defendant. To the extent that an answer is required, Defendant denies any violation of law or any wrongdoing.

6. Answering Paragraph 16 of Plaintiffs' Complaint, Defendant admits the events took place in Lorain County, State of Ohio. Further answering said Paragraph, Defendant denies any violation of law or any wrongdoing.

7. Answering Paragraphs 17 and 18 of Plaintiffs' Complaint, Defendant admits Plaintiffs were arrested on the date alleged. Further answering said Paragraphs, Defendant denies any violation of law or any wrongdoing.

8. Answering Paragraphs 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29 of Plaintiffs' Complaint, Defendant avers that Ms. Warner indicated to the officers that she lived at the residence, but that Mr. Ortiz refused to allow her to enter and obtain her personal property. Officers went to the residence with her, requesting and encouraging Mr. Ortiz to allow Ms. Warner to retrieve her personal property. Mr. Ortiz refused entry and Ms. Warner kicked open the door and officers followed her into the house. Mr. Ortiz struggled with the officers as they tried to protect Ms. Warner. Mr. Ortiz was non-compliant, resisting and was given a drive stun to gain compliance. He was handcuffed and arrested. Mr. Ortiz was transported by EMS to the hospital. Defendant denies any remaining allegations in said Paragraphs.

9. Answering Paragraph 30 of Plaintiffs' Complaint, Defendant is without sufficient information or belief to form an opinion as to the truth of the allegations contained therein and therefore denies the same.

10. Answering Paragraph 31 of Plaintiffs' Complaint, Defendant on information and belief admits the allegations contained therein.

11. Answering Paragraph 32 of Plaintiffs' Complaint, Defendant denies Plaintiffs characterization of the events therein and therefore, denies the allegations contained therein.

12. Answering Paragraph 33 of Plaintiffs' Complaint, Defendant denies Plaintiffs characterization of the events therein and therefore, denies the allegations contained therein.

13. Answering Paragraph 34 of Plaintiffs' Complaint, Defendant is without sufficient information or belief to form an opinion as to the truth of the allegations contained therein and therefore denies the same.

14. Answering Paragraphs 35 and 36 of Plaintiffs' Complaint, Defendant denies the allegations contained therein.

15. Answering Paragraph 37 of Plaintiffs' Complaint, Defendant realleges and reavers all the admissions, averments and denials contained in paragraphs 1 through 14 of her answer as if fully rewritten herein.

16. Answering Paragraphs 38, 39, 40, 41 and 42 of Plaintiffs' Complaint, Defendant denies the allegations contained therein.

17. Answering Paragraph 43 of Plaintiffs' Complaint, Defendant realleges and reavers all the admissions, averments and denials contained in paragraphs 1 through 16 of her answer as if fully rewritten herein.

18. Answering Paragraphs 44, 45, 46, and 47 of Plaintiffs' Complaint, Defendant denies the allegations contained therein.

19. Answering Paragraph 48 of Plaintiffs' Complaint, Defendant realleges and reavers all the admissions, averments and denials contained in paragraphs 1 through 18 of her answer as if fully rewritten herein.

20. Answering Paragraphs 49, 50, 51, 52, 53 and 54 of Plaintiffs' Complaint, Defendant denies the allegations contained therein.

21. Answering Paragraph 55 of Plaintiffs' Complaint, Defendant realleges and reavers all the admissions, averments and denials contained in paragraphs 1 through 20 of her answer as if fully rewritten herein.

22. Answering Paragraphs 56, 57, 58, and 59 of Plaintiffs' Complaint, Defendant denies the allegations contained therein.

23. Answering Paragraph 60 of Plaintiffs' Complaint, Defendant realleges and reavers all the admissions, averments and denials contained in paragraphs 1 through 22 of her answer as if fully rewritten herein.

24. Answering Paragraphs 61, 62, 63, 64 and 65 of Plaintiffs' Complaint, Defendant denies the allegations contained therein.

25. Answering Paragraph 66 of Plaintiffs' Complaint, Defendant realleges and reavers all the admissions, averments and denials contained in paragraphs 1 through 24 of her answer as if fully rewritten herein.

26. Answering Paragraphs 67, 68, 69, and 70 of Plaintiffs' Complaint, Defendant denies the allegations contained therein.

27. Answering Paragraph 71 of Plaintiffs' Complaint, Defendant realleges and reavers all the admissions, averments and denials contained in paragraphs 1 through 26 of her answer as if fully rewritten herein.

28. Answering Paragraphs 72 and 73 of Plaintiffs' Complaint, Defendant denies the allegations contained therein.

29. Answering Paragraph 74 of Plaintiffs' Complaint, Defendant realleges and reavers all the admissions, averments and denials contained in paragraphs 1 through 28 of her answer as if fully rewritten herein.

30. Answering Paragraphs 75, 76 and 77 of Plaintiffs' Complaint, Defendant denies the allegations contained therein. Defendant further controverts the prayer contained subsequent to Paragraph 77 of Plaintiffs' Complaint.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

31. Defendant realleges and reavers all the admissions, averments and denials contained in paragraphs 1 through 30 of her answer as if fully rewritten herein.

32. Plaintiffs' Complaint is barred, in whole or in part, by qualified immunity.

SECOND DEFENSE

33. Plaintiffs' Complaint is barred, in whole or in part, by Chapter 2744 of the Ohio Revised Code.

THIRD DEFENSE

34. Plaintiffs' Complaint in whole or in part fails to state a claim upon which relief can be granted.

FOURTH DEFENSE

35. Plaintiffs' damages, if any, are barred by a failure to mitigate.

WHEREFORE, having fully answered, Defendant, Patrolman Paige Mitchell, prays that Plaintiffs' Complaint be dismissed, and that she go hence without cost or delay.

Respectfully submitted,

MAZANEC, RASKIN & RYDER CO., L.P.A.

s/John T. McLandrich

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JURY DEMAND

A trial by jury composed of the maximum number of jurors permitted under the law is hereby demanded.

s/John T. McLandrich

JOHN T. MCLANDRICH (0021494)

Counsel for Defendant Patrolman Paige Mitchell

CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2024, a copy of the foregoing Answer of Defendant Patrolman Paige Mitchell was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/John T. McLandrich
JOHN T. MCLANDRICH (0021494)

Counsel for Defendant Patrolman Paige Mitchell